

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : SEALED ORDER
- v. - : 22 Mag. 9297
CLISANDRO MENDEZ :
Defendant. :
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WHEREAS, an application has been made by the United States of America, with defendant Clisandro Mendez's consent, for the temporary sealing of filings and other docket entries in the above-captioned case, and the captioning of the case as United States v. John Doe in the public docket;

WHEREAS, the Court finds that the defendant's safety may be placed at risk and active law enforcement investigations may be compromised if the Government's application is not granted;

IT IS HEREBY ORDERED that filings in the above-captioned case be filed under seal, and the case shall be captioned as United States v. John Doe in the public docket, until further order by this Court;

IT IS FURTHER ORDERED that no docket entries shall be made in the above-captioned matter until further Order by this Court;

IT IS FURTHER ORDERED that counsel for the defendant and the Government may be provided a copy of the transcript of proceedings in this matter without further Order of the Court; and

IT IS FINALLY ORDERED that the Government shall report to the Court on or before six months after execution of this Order regarding the continuing need, if any, to maintain these matters under seal.

SO ORDERED:

Dated: New York, New York
November 17, 2022



THE HONORABLE JENNIFER E. WILLIS
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : SEALED AFFIRMATION
 : AND APPLICATION
- v. - : 22 Mag.
CLISANDRO MENDEZ, :
Defendant. :
----- X

ANDREW JONES hereby affirms, under penalty of perjury and pursuant to Title 28, United States Code, Section 1746, as follows:

1. I am an Assistant United States Attorney in the office of Damian Williams, United States Attorney for the Southern District of New York, and I am familiar with this matter. By this affirmation, the Government applies for an order of the Court directing that filings and other docket entries in the above-captioned case be filed under seal, and that the case be captioned United States v. John Doe in the public docket.

2. On or about November 16, 2022, defendant Clisandro Mendez was arrested in the Bronx when he attempted to take possession of a shipment containing approximately 6.6 kilograms of fentanyl. Mendez is charged by complaint with conspiring to traffic fentanyl, and he will make his initial appearance in court on November 17, 2022.

3. In an interview with agents after his arrest, Mendez provided information to law enforcement officers about the narcotics he was arrested for trafficking and the involvement of a co-conspirator who Mendez stated paid Mendez to receive the narcotics.

4. I am informed by the defendant's attorney, Mark Gombiner, Esq., that Mendez wishes to continue cooperating with the Government. Accordingly, the Government anticipates that, after further investigation, information provided by Mendez may be presented to a grand jury in this District, for purposes of obtaining an indictment against his co-conspirators, and further that subpoenas may be issued in the name of the grand jury for records pertaining to this investigation.

5. Although there is a qualified right of public access to Court documents, the Second Circuit has recognized that documents may be filed under seal to protect, among other things, a cooperating defendant's safety or to further ongoing law enforcement efforts, including grand jury investigations. See United States v. Cojab, 996 F.2d 1404, 1407-09 (2d Cir. 1993) (affirming sealing order); United States v. Haller, 837 F.2d 84, 88 (2d Cir. 1988) (affirming decision to seal that portion of a plea agreement that referred to a defendant's ongoing

cooperation); see also Fed. R. Crim. Pro. 49.1(d) and (e) & advisory committee note (permitting a court to order filings to be made under seal, and explicitly listing, as an example, "plea agreements indicating cooperation"). The Second Circuit has also recognized that even docketing the applications to seal those materials could be prejudicial, and in such cases the applications themselves and related notes to the docket could be sealed. See United States v. Alcantara, 396 F.3d 189, 200 n.8 (2d Cir. 2005). Docketing this case under the pseudonym "John Doe," and sealing all filings in the case, is equivalent to making a sealed entry in the docket sheet.

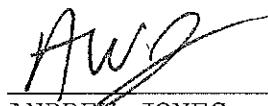
6. Compelling law enforcement interests support an order directing that filings and other docket entries in this case be made under seal. The Government has learned through information provided by Mendez and independent investigation that Mendez is involved in trafficking large quantities of Narcotics. If Mendez's co-conspirators learned about the charges against Mendez or his assistance, they could flee, destroy or delete records, and take other steps to avoid detection. Exposure of Mendez's assistance could jeopardize an ongoing investigation. Further, if Mendez's cooperation were known, it could place at risk his, or his family's, safety. An order sealing filings and other docket entries

in the above-captioned case would greatly reduce the risk that Mendez's ongoing assistance or the charges against Mendez will be exposed.

7. Mendez's assistance (and the charges against him) will not be kept sealed indefinitely, however. The Government anticipates that, if Mendez's assistance leads to the arrest and prosecution of other targets of this investigation, the filings in this case may be unsealed, and the docket sheet could reflect the true caption of this case. At that time, the Government will move this Court for an order unsealing the filings of this case, and restoring the true caption of the case to the docket sheet.

8. Accordingly, the Government requests that filings and other docket entries in the above-captioned case, including this Affirmation and any order issued in connection with it, be filed under seal, and that the case be captioned United States v. John Doe in the public docket, until further order of the Court. No prior request for the relief set forth herein has been made, and counsel for Mendez has consented to this application.

Dated: New York, New York
November 17, 2022



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